

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 95-5434

ANTONIO ALFONZO ROGERS, a/k/a
Monkey,
Defendant-Appellant.

Appeal from the United States District Court
for the Western District of North Carolina, at Charlotte.
Richard L. Voorhees, Chief District Judge.
(CR-94-92-V)

Submitted: July 31, 1997

Decided: August 12, 1997

Before HALL, HAMILTON, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Kenneth P. Andresen, Charlotte, North Carolina, for Appellant. Mark
T. Calloway, United States Attorney, Gretchen C.F. Shappert, Assis-
tant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

Antonio Alfonzo Rogers pled guilty to conspiracy to possess with intent to distribute and to distribute crack cocaine, 21 U.S.C. § 846 (1994), and possession of a firearm while a convicted felon, 18 U.S.C.A. § 922(g)(1) (West Supp. 1997). His attorney has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), raising several issues but stating that in his view there are no meritorious issues. Rogers has been informed of his right to file a pro se supplemental brief, but has not filed a brief. We dismiss the appeal.

Rogers' plea agreement contained a waiver of his right to appeal either the conviction or sentence as long as his sentence was within the guideline range, except for allegations of ineffective assistance or prosecutorial misconduct. At the plea colloquy, the magistrate judge* reviewed this provision with Rogers. In view of these circumstances, it is evident that Rogers made a knowing and intelligent waiver of his appeal rights. See United States v. Broughton-Jones, 71 F.3d 1143, 1146 (4th Cir. 1995). Because the waiver is valid, our review under Anders is confined to an examination of the record for prosecutorial misconduct or ineffective assistance which is conclusively shown in the materials before us. See United States v. Smith, 62 F.3d 641, 645 (4th Cir. 1995). We find neither.

We therefore dismiss the appeal. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client.

We dispense with oral argument because the facts and legal contentions are adequately presented in the record and briefs, and oral argument would not aid the decisional process.

DISMISSED

*Rogers consented to having his plea accepted by a United States Magistrate Judge. See 28 U.S.C. § 636(b) (1994).